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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,726	12/08/2000	Kozo Shimizu	001616	1555

7590 03/18/2003

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EXAMINER

IP, SIKYIN

ART UNIT

PAPER NUMBER

1742

DATE MAILED: 03/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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A9

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER

9

DATE MAILED:

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

### ADVISORY ACTION

THE PERIOD FOR RESPONSE:

a)  is extended to run 4 months or continues to run \_\_\_\_\_ from the date of the final rejection  
b)  expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

Appellant's Brief is due in accordance with 37 CFR 1.192(a).  
 Applicant's response to the final rejection, filed 3/6/03 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1.  The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
  - a.  There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
  - b.  They raise new issues that would require further consideration and/or search. (See Note).
  - c.  They raise the issue of new matter. (See Note).
  - d.  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - e.  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

2.  Newly proposed or amended claims \_\_\_\_\_ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.

3.  Upon the filing an appeal, the proposed amendment  will be entered  will not be entered and the status of the claims will be as follows:

Claims allowed: none  
Claims objected to: none  
Claims rejected: 1-6, 15, 16

However;

Applicant's response has overcome the following rejection(s): \_\_\_\_\_

4.  The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because of reasons  
as set forth in pages No. 7. Applicants' argument is pre-empted  
by citing pages 2-3 of the instant remarks as noted. As Stated

5.  The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

The proposed drawing correction  has  has not been approved by the examiner.

Other \* In In re Waltherin 541 F.2d 257, 191 USPQ 90 (CCPA 1976) that, "the disclosure in the prior art of any value within a claimed range is an anticipation of that range." Applicants' argument in 1<sup>st</sup> full paragraph of page 3 is noted. But instant claims have open transitional expression which includes all elements disclosed before

SIKYIN IP  
PRIMARY EXAMINER